Connect Smarter.

600 14th Street, N.W., Suite 750 > Washington, D.C. 20005 > 202-220-0400

Jason D. Oxman
Vice President and Assistant General Counsel

11 October 2002

William Maher
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Triennial Review Proceeding, WCB Docket No. 01-338

Dear Mr. Maher:

In our conversation on Wednesday, October 9, 2002, regarding the state of broadband deployment since the FCC adopted its linesharing UNE rules in 1999, you asked about the extent to which the Commission's linesharing rules have sparked DSL deployment by both incumbent and competitive LECs. You further asked whether there is specific evidence on the record in the Triennial Review proceeding that demonstrates the success of the Commission's linesharing rules in accomplishing the stated goal of promoting broadband deployment. In response to your inquiry, I would point you to the state of California's comments in this proceeding, which call specifically for the preservation of the linesharing UNE. In California, where CLEC DSL deployment is most mature, DSL subscribers actually *outnumber* cable modem subscribers, making California the best example of how the Commission's linesharing rules have sparked broadband deployment.

According to the California Public Utility Commission (CPUC), more California consumers are served by DSL service than by competing cable modem services. The CPUC's own statistics reveal that, in California, there are 735,677 ADSL lines (provided by both ILECs and CLECs) and 609,174 cable lines in service. Thus, in California, DSL has 57% of the broadband market, while cable modem service has 43%.[1] Covad launched its competitive DSL services in California earlier than in any other state[2], and Covad currently has more DSL lines in service in California than any other state. The fact that DSL competition is the most mature, and the most widespread, in California, combined with the fact that DSL services are well ahead of cable modem services in California (the nation's most populous state), gives the lie to Bell company claims that linesharing hinders DSL deployment. Indeed, according to the CPUC, the vast majority of the ADSL lines are provided by Pacific Bell/SBC – proving that SBC is in no way hindered in dominating the broadband market in California.[3] Equally importantly, these facts make clear that both ILEC and CLEC DSL deployment, once given the opportunity to mature (even though California is most advanced in DSL deployment, deployment in that state is less than 5 years old), will thrive in a competitive environment.

The Commission should recognize that the adoption of linesharing rules was the spark for widespread BOC DSL deployment. Indeed, as the FCC was adopting its linesharing rules in 1999, Pacific Bell announced that it would "nearly triple its current deployment and offer ADSL service in 255 wire centers that serve 70 percent of its

[1] CA PUC Comments, WCB Docket No. 01-338, at 7 (filed April 5, 2002).

[2] http://www.covad.com/companyinfo/pressreleases/pr_1998/press_120897.shtml

[3] CA PUC Comments, WCB Docket No. 01-338, at 7.

customers. By the end of 1999, five million residential and 900,000 business customers will be ADSL-ready."[4] Pacific Bell made no such amount before 1999, despite the fact that cable modem deployment had begun four years earlier. Why did Pacific Bell undertake to triple its ADSL deployment in California, just as the FCC's linesharing rules were being adopted? Because competition from CLEC DSL, and that competition alone, is the only force that sparks the Bells to innovate. The BOC/cable modem duopoly provided no competitive pressure for Bell company innovation. Thus, the FCC's linesharing rules had their intended effect: as the CPUC argues to this Commission, "the fact that Pacific/SBC has successfully promoted DSL service to customers under the current regulatory environment to the point of outstripping cable modem service makes clear that the current regulatory environment is conducive to, and does not impede investment in, broadband technology by the ILEC."[5]

The FCC's nationwide broadband deployment statistics echo the California experience. Since the FCC adopted linesharing UNE rules in 1999, the pace of broadband deployment has accelerated exponentially, sparked by the competition that resulted from the linesharing decision. From the implementation of linesharing rules to the present day, DSL deployment has increased dramatically and, in the second half of 2001, outpaced cable modem deployment. According to the FCC's most recent statistics:

- High-speed asymmetric DSL (ADSL) lines in service increased by 47% during the second half of 2001, from nearly 2.7 million to over 3.9 million lines, compared to a 36% increase, from nearly 2 million to 2.7 million lines, during the preceding six months.

---

[4] http://www.sbc.com/press_room/1,5932,31,00.html?query=19990112-1

[5] CA PUC Comments at 8.

- High-speed Internet connections over coaxial cable systems (cable modem service) increased by 36% during the final six months of 2001, from 5.2 million to 7.1 million lines. By comparison, cable modem service increased by 45%, from nearly 3.6 million to 5.2 million lines, during the first half of 2001.[6]

Given that cable modem service were first launched in 1994, a full four years before DSL services, the fact that DSL services are narrowing the gap so quickly suggests strongly that the Commission's pro-competitive linesharing rules are sparking both CLEC and ILEC DSL deployment at a rapid pace.

Further evidence of the importance of linesharing to broadband deployment and innovation has come in recent weeks. In June of 2002, Covad announced a groundbreaking DSL product that provides dial-up Internet users an innovative and competitively priced (the lowest national broadband price) broadband service. Covad's TeleSurfer Link product, priced at $21.95 for the first four months, and $39.95 thereafter, with free equipment and installation and no annual contract, utilizes lineshared loops to provide affordable broadband services. Shortly after Covad announced its recent pricing decreases, SBC began moving in Covad's direction, although not quite as far. SBC's new pricing (announced just weeks ago) is $29.95 for the introductory months, then $42.95 per month thereafter, and SBC's services require a one year contract.[7] SBC's new product offerings are a clear competitive response to Covad's price reductions, and consumers are the beneficiaries. Similarly, Verizon announced just this week that it would begin offering lower prices for its DSL services ($39.95 per month in exchange for

---

[6] "Federal Communications Commission Releases Data On High-Speed Services For Internet Access," available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/hspd0702.pdf (July 2002).

[7] http://www.sbc.com/press_room/press_kit/SBC_Yahoo_DSL_Final_pricing_sheets.doc

an annual contract).[8] Again, Verizon's announcement is the direct and predictable consequence of CLEC competition in the broadband sector. Before the FCC adopted linesharing rules in 1999, Verizon's DSL retail services were priced at an incredible $69.95 per month. Verizon clearly felt no competitive pressure from cable modem services (which had been in service for years by the time Verizon launched its own DSL services), and only began lowering prices (first to $49.95, then to $39.95) as CLEC DSL services expanded. It is clear that, prior to the FCC's linesharing UNE implementation, the ILEC/cable broadband duopoly provided no incentive for price reductions. It was not until the FCC's linesharing rules permitted CLECs to provide residential broadband DSL that the Bells began deploying DSL services, and then slowly reducing prices as competitive pressure from mounted. Today, Verizon is offering DSL services at $39.95, a far cry from the $69.95 price levels that it maintained in a cable/ILEC broadband duopoly. Were the Commission to permit a monopoly in broadband services – or even a return to duopoly[9] -- such innovation and consumer-friendly price decreases will disappear.

---

[8] http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=77780&PROACTIVE_ID=cecfc8c8cac8c7cfc9c5cecfcfcfc5cecfc6c8cbcdc6c9cdc6c5cf (October 9, 2002).

[9] *See, e.g.* Statement of Chairman Michael K. Powell on Echostar/DirecTV merger ("The DBS story so far is one of successful, intra-modal, facilities-based competition. This competition has led to more innovation, more programming, and more subscribers; exactly the benefits one would expect. For those who believe, as I do, that these benefits flow from competition between DBS providers, the elimination of that competition, absent a more compelling showing, cannot be squared with the public interest."),

Please do not hesitate to contact me if I can provide any further information.

Respectfully submitted,

/s/ Jason Oxman

Jason D. Oxman
Vice President/Assistant General Counsel
Covad Communication Company

cc: Jeff Carlisle
Michelle Carey
Thomas Navin
Robert Tanner
Jeremy Miller
Scott Bergman
Christopher Libertelli
Matt Brill
Daniel Gonzalez
Jordan Goldstein

---

available at http://www.fcc.gov/Daily_Releases/Daily_Business/2002/db1010/DOC-227263A2.pdf (October 10, 2002).